

ORIGINAL

KESE

KJEM FM, A LIMITED PARTNERSHIP
216 NORTH MAIN STREET
BENTONVILLE, ARKANSAS 72712

JUNE 22 1992

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FEDERAL COMMUNICATIONS COMMISSION

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Federal Communications Commission
Office of the Secretary

RE: MM DOCKET NO. 92-49

RM-8009

REPLY COMMENTS

PLEASE FIND ENCLOSED THE ORIGINAL AND FOUR COPIES OF
THE FOLLOWING ITEMS IN THE ABOVE REFERENCED RULEMAKING
PROPOSAL;

1) REPLY COMMENTS OF KJEM FM, A LIMITED PARTNERSHIP,
LICENSEE OF KESE.

2) CERTIFICATION OF COPIES OF COMMENTS SERVED

I CERTIFY THAT ALL INFORMATION CONTAINED HEREIN IS TRUE
AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

YOURS TRULY,


ELVIS MOODY

GENERAL PARTNER

KJEM FM, A LIMITED PARTNERSHIP

LICENSEE OF KESE SELNGMAN, MO

No. of Copies rec'd
List A B C D E

0+4

KESE

KJEM FM, A LIMITED PARTNERSHIP

RM-8009

EXHIBIT 1

REPLY COMMENTS OF KJEM FM, A LIMITED PARTNERSHIP

THE ABOVE REFERENCED RULEMAKING WAS FILED AS A COUNTERPROPOSAL TO RM-7924 FILED AND SUPPORTED BY KJEM FM, A LIMITED PARTNERSHIP, LICENSEE OF KESE SELIGMAN, MISSOURI. THAT PROPOSAL SOUGHT TO AMEND THE TABLE OF ALLOTMENTS TO ACCOMMODATE THE UPGRADE OF STATION KESE, SELIGMAN, MISSOURI ON CHANNEL 227 FROM CLASS C2 TO CLASS C1. TO ACCOMPLISH THIS CHANGE TWO ADDITIONAL STATIONS WOULD BE REQUIRED TO MOVE FROM THEIR PRESENTLY AUTHORIZED CHANNELS.

STATION KFAY FM AT HUNTSVILLE, ARKANSAS HAS BEEN PROPOSED TO MOVE FROM 225A TO CHANNEL 258A AND STATION KXBR AT GREENFIELD, MISSOURI HAS BEEN PROPOSED TO MOVE FROM CHANNEL 228A TO CHANNEL 299A.

IN A COUNTERPROPOSAL TENDERED BY KYOO BROADCASTING COMPANY NOW LISTED AS RM-8009, KYOO BROADCASTING COMPANY (HEREINAFTER KBC) SUBMITTED A PROPOSAL ASKING THAT THE RULEMAKING PROPOSAL TO UPGRADE KESE BE DENIED AND THAT KBC'S PROPOSAL BE GRANTED. THE PROPOSAL OF KBC WOULD ALLOCATE CHANNEL 226C3 FOR CHANNEL 226A AT HALFWAY, MISSOURI, TO ACCOMMODATE THIS REQUEST KBC ALSO REQUESTED THE SUBSTITUTION OF CHANNEL 299A FOR CHANNEL 228A AT GREENFIELD, MISSOURI AND

THE SUBSTITUTION OF CHANNEL 228A FOR CHANNEL 225A AT OZARK, MISSOURI.

IN THE NOTICE OF PROPOSED RULEMAKING RM-7924 THE PROPOSAL OF KESE WAS FOUND TO BE IN THE PUBLIC INTEREST BY PROVIDING THE RURAL AREA OF SOUTHWEST MISSOURI AND NORTHWEST ARKANSAS WITH EXPANDED SERVICE. FURTHER THE COMMISSION NOTED, "THE FILING OF A COUNTERPROPOSAL MAY LEAD THE COMMISSION TO ALLOT A DIFFERENT CHANNEL THAN WAS REQUESTED FOR ANY OF THE COMMUNITIES INVOLVED." KESE THEN SOUGHT TO RESOLVE THE CONFLICT BETWEEN THE PROPOSAL TO UPGRADE KESE AND KYOO.

IN REPLY COMMENTS FILED IN RM-7924 KESE AS WELL AS OZARK MOUNTAIN BROADCASTING, INC. THE PERMITTEE OF STATION KZPF AT OZARK, MISSOURI DEMONSTRATED THAT THE UNBUILT CONSTRUCTION PERMIT OF KYOO AT HALFWAY, MISSOURI COULD BE MODIFIED TO SPECIFY CHANNEL 256CS, INSTEAD OF 226 AS PROPOSED IN ITS COUNTER PROPOSAL. THE ADOPTION OF THE ALTERNATIVE CHANNEL WILL SOLVE THE CONFLICT IN THE UPGRADE PROPOSAL OF KESE (RM-7924) AND ALLOW BOTH KESE AND KYOO TO INCREASE SERVICE TO SOUTHWEST MISSOURI AND NORTHWEST ARKANSAS. IN ITS COUNTERPROPOSAL KYOO PROPOSED SITE CO-ORDINATES OTHER THAN THOSE IN ITS EXISTING CONSTRUCTION PERMIT. THEREFORE, A CHANGE TO ALTERNATIVE CO-ORDINATES TO ACCOMMODATE CHANNEL 256CS WOULD PRESENT NO HARDSHIP ON KYOO.

IN FACT THE UPGRADE PROPOSAL SUBMITTED BY KYOO IS NOT POSSIBLE IF THE SITE CO-ORDINATES FOR ITS CONSTRUCTION PERMIT ARE USED. IT IS ONLY BY GOING TO A NEW SITE ALTOGETHER THAT KYOO CAN PROPOSE TO UPGRADE TO CLASS C3.

THE COMMISSION CLEARLY HAS IT WITHIN ITS AUTHORITY TO ORDER KYOO TO CHANNEL 256C3 WITHOUT ENTERTAINING OTHER EXPRESSIONS OF INTEREST. TO DO SO WILL ALLOW THE PUBLIC INTEREST TO BE SERVED BY ALLOWING KESE TO INCREASE ITS COVERAGE AREA FROM CHANNEL 227C2 TO CHANNEL 227C1, AND ALLOW KYOO TO INCREASE ITS COVERAGE AREA BY MOVING FROM CHANNEL 226A TO CHANNEL 256C3. THIS WILL ALSO CAUSE A MINIMUM DISRUPTION AS THIS WILL ONLY CAUSE KFAY FM AT HUNTSVILLE, ARKANSAS TO MOVE FROM CHANNEL 225A TO CHANNEL 258A, KXBR AT GREENFIELD, MISSOURI TO MOVE FROM CHANNEL 228A TO CHANNEL 299A AND WILL NOT REQUIRE KZPF AT OZARK, MISSOURI TO MOVE AT ALL.

TO ADOPT THE COUNTERPROPOSAL OF KYOO WILL CAUSE STATIONS KXBR AND KZPF TO MOVE TO NEW CHANNELS AND WILL CAUSE ONLY A VERY SMALL INCREASE OF SERVICE AREA FOR KYOO.

KESE HAS SERVED IN THE PUBLIC INTEREST AND IN FACT OF ALL THE PERMITS OR LICENSED STATIONS INVLOVED, KESE IS THE ONLY RADIO STATION CURRENTLY BROADCASTING. KXBR AT GREENFIELD, MISSOURI HAS BEEN SILENT FOR OVER ONE YEAR, KFAY FM AT HUNTSVILLE, ARKANSAS HAS BEEN SILENT SINCE JANUARY 31, 1992, KYOO FM AT HALFWAY, MISSOURI IS AN UNCONSTRUCTED PERMIT, AND KZPF AT OZARK, MISSOURI IS ALSO AN UNCONSTRUCTED PERMIT. ONE STATION OF THE ENTIRE LIST IS CURRENTLY SERVING

IN THE PUBLIC INTEREST. COVERAGE AREAS MEAN NOTHING IF THE STATION IS NOT ON THE AIR SERVING IN THE PUBLIC INTEREST. THE ADOPTION OF THE ALTERNATIVE CHANNEL FOR KYOO WILL ALLOW A SPEEDY RESOLUTION OF THE ISSUE AND ALLOW INCREASED SERVICE TO THE RURAL AREAS OF SOUTHWEST MISSOURI IN MONTHS INSTEAD OF POTENTIAL YEARS IF THE ISSUE IS NOT RESOLVED. THE IMPROVEMENT OF SERVICE IS IN THE PUBLIC INTEREST AND THE MAXIMUM PUBLIC INTEREST CAN BE SERVED BY ALLOWING BOTH KESE AND KYOO TO INCREASE THEIR RESPECTIVE SERVICE AREAS, THROUGH A SPEEDY RESOLUTION OF THE TWO RULEMAKINGS INVOLVED.

IN CONCLUSION, KJEM FM, A LIMITED PARTNERSHIP LICENSE OF KESE OPPOSES THE PROPOSAL CONTAINED IN RM 8009 AND ADVANCES THE PROPOSAL CONTAINED IN THE REPLY COMMENTS OF KESE AND OF OZARK MOUNTAIN BROADCASTING, INC., LICENSEE OF KZPF TO ALLOCATE CHANNEL 256C3 TO HALFWAY, MISSOURI IN PLACE OF THE PROPOSAL TO ALLOCATE CHANNEL 226C3 WITHOUT ENTERTAINING EXPRESSIONS OF OTHER INTEREST.

KESE

KJEM FM, A LIMITED PARTNERSHIP

RM-8009

EXHIBIT 2

CERTIFICATION OF SERVICE

I CERTIFY THAT ON THIS DATE, I HAVE MAILED BY CERTIFIED MAIL THE ORIGINAL AND FOUR COPIES OF THIS PETITION FOR RULEMAKING AND ALL EXHIBITS TO THE FCC AND ONE COPY OF EACH TO THE FOLLOWING;

MR. CHRIS DEVINE

KXBR, INC.

19 EAST 200 SOUTH, SUITE 101

SALT LAKE CITY, UTAH 84111

PAT DEMAREE

DEMAREE MEDIA, INC.

KFAY FM

P.O. BOX 878

FAYETTEVILLE, ARKANSAS 72702

KYOO BROADCASTING COMPANY

WILLIAM J. PENNINGTON

P.O. BOX 4203

WILMINGTON, NORTH CAROLINA 28406

KZPF RADIO

OZARK MOUNTAIN BROADCASTING, INC.

512 WEST EDGEWOOD

SPRINGFIELD, MISSOURI 65807

DATE:

June 22, 1992

CERTIFIED BY:

Elvis Moody
ELVIS MOODY